

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 24**

INSTITUTO SOCIO-ECONOMICO COMUNITARIO, INC.

Employer

and

JOSE G. CAMACHO, AN INDIVIDUAL

Petitioner

Case 24-RD-524

and

UNIDAD LABORAL DE ENFERMERAS(OS) Y
EMPLEADOS DE LA SALUD

Union

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein the Act, a hearing was held on October 5, 2010, before a hearing officer of the National Labor Relations Board, herein the Board. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.¹

¹ Upon the entire record in this proceeding, the undersigned finds:

- a. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
- b. The Employer, a Puerto Rico not for profit corporation, with an office located in Hato Rey, Puerto Rico, is engaged in providing community services. During the past calendar year, the Employer purchased and received at its Hato Rey location goods and materials valued in excess of \$50,000 from firms which in turn purchased these goods directly from points located outside the Commonwealth of Puerto Rico. During the same period of time, the Employer received funds from the Federal Government in excess of \$1 million.
- c. The Employer is engaged in commerce within the meaning of the Act.

I. Determination

Having examined the entire record in this proceeding and for the reasons set forth below, and having found that there are no issues raised by Union², Employer or Petitioner; I conclude that there are no impediments that preclude the further processing of this Petition.

II. Facts

On August 30, 2002, in Case 24-RC-8261, the Union was certified as the exclusive bargaining representative of the employees of the Employer³ at its different offices located at Ponce, Aguada, Toa Baja, Caguas, Arecibo, Humacao, San German, Carolina, Comerío, Guayama, Mayaguez and Central Offices in Hato Rey, Puerto Rico. In 2006, the parties signed a collective bargaining agreement which expired by its terms on October 1, 2009. The 60 to 90 day “open” period for filing a petition ran from July 4 to August 2, 2009.

The instant petition was timely filed on July 30, 2009. Thereafter, the Union filed several unfair labor practice charges against the Employer. I take official notice of the Regional office records which show that at the time of the hearing, there were no unfair

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- d. I take official notice that in Hospital Episcopal San Lucas, 319 NLRB 54 (1995), the Board found that the Unidad Laboral de Enfermeras (os) y Empleados de la Salud was a labor organization within the meaning of Section 2(5) of the Act

A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of section 9(c) (1) and section 2(6) and (7) of the Act.

² On September 28, 2010, the Unidad Laboral de Enfermeras (os) y Empleados de la Salud (hereinafter Union) requested postponement of the hearing originally scheduled for October 5, 2010 at 9:30 a.m., for 1:30 p.m. that same day. On October 5, 2010, the Union filed a request to postpone the hearing and suggested the hearing be held on October 11, 12 or 13, 2010. This request was found to be untimely and was denied. Nevertheless, the Union failed to attend the hearing.

³ The Unit as certified includes all employment technicians, case management technicians, housing improvement technicians, service application assistants, communal technicians, communal developers, accounting clerks, planification technicians, community service representatives, representative of external resources, program technicians, program clerks, program assistants, data-entry clerks, warehouse employees, secretaries, receptionists and janitors employed by the Employer in its different offices located at Ponce, Aguada, Toa Baja, Caguas, Arecibo, Humacao, San German, Carolina, Comerio, Guayama, Mayaguez and the Central Offices located in Hato Rey, Puerto Rico.

labor practice charges pending in the Regional office. Accordingly, I find that there is no impediment to the further processing of the instant petition.

III. The Unit:

The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of section 9(b) of the Act:

INCLUDED: All employment technicians or promoters, case management technicians, program representative, service and program representative, office auxiliaries, operational service technicians, service application assistants, communal technicians, communal developers of all facilitators, accounts clerks, planification technicians, community service representatives, representative of external resources, program technicians, program clerks, program assistants, data-entry clerks, warehouse employees, secretaries, receptionists, and janitors employed by the Employer at its different offices located at Ponce, Aguada, Toa Baja, Caguas, Camuy, Humacao, Mayaguez I, Rio Grande, Comerio, Guayama, Mayaguez II, and the Central offices located in Hato Rey, Puerto Rico.

EXCLUDED: All other employees, administrators, executives, directors and their assistants, executive secretary, confidential employees, guards and supervisors as defined by the Act.

The record does not include any information as to the number of employees in the bargaining unit. According to the Petition there are approximately 40 employees in the unit.

IV. Direction of Election

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by **Unidad Laboral de Enfermeras(os) y Empleados de la Salud**. The date, time and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*,

315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (by facility). This list may initially be used by me to assist in determining an adequate showing of interest. I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Regional Office on or before **November 16, 2010**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency's website, www.nlr.gov,⁴ by mail, or by facsimile transmission at (787) 766-5478. The burden of establishing the timely filing and receipt of the list will continue to be placed on the sending party.

Since the list will be made available to all parties to the election, please furnish a total of **two** copies of the list, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the

⁴ To file the eligibility list electronically, go to www.nlr.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu, and follow the detailed instructions.

Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

V. Right to Request Review

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **November 23, 2010**. The request may be filed electronically through E-Gov on the Agency's website, www.nlr.gov,⁵ but may not be filed by facsimile.

DATED: November 9, 2010.



/s/

Marta M. Figueroa
Regional Director, Region 24
National Labor Relations Board
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⁵ To file the request for review electronically, go to www.nlr.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu and follow the detailed instructions. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Agency's website, www.nlr.gov.